

8/23/04

1FW

Express Mail No.: EV 380369740 US

Mailed: August 20, 2004



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Derek LYDIATE, et al.

Application No.: 10/678,490

Filed: October 3, 2003

For: *Repressor-Mediated Selection Strategies*

Art Unit: 1638

Examiner: Not Yet Assigned

Confirmation No.: 8191

Attorney Docket: 11089.0003.NPUS01

Information Disclosure Statement

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Listed on accompanying Form PTO-1449 are documents that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98.

Where the publication date of a listed document does not provide a month of publication, the year of publication of the listed document is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the month of publication is not in issue. Applicants have listed publication dates on the attached PTO-1449 based on information presently available to the undersigned. However, the listed publication dates should not be construed as an admission that the information was actually published on the date indicated.

Applicants reserve the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith. It is further understood that the Examiner will consider information that had been cited by or submitted to the U.S. Patent and Trademark Office in a prior application relied on under 35 U.S.C. § 120. 1138 OG 37, 38 (May 19, 1992).

Applicants have checked the appropriate boxes below.

- 1. This Information Disclosure Statement is being filed;
 - ☐ a. Within three months of the U.S. filing date of a national application other than a continued prosecution application under §1.53(d);
 - ☐ b. Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;
 - ☐ c. Before the mailing date of a first Office Action on the merits;
 - d. Before the mailing of a first Office Action after filing of a request for continued examination under § 1.115.

No statement under 37 C.F.R. § 1.97(e) or fee is required.

or;

- ☐ 2. This Information Disclosure Statement is being filed after the period specified in paragraph 1(a)-1(d) above, but before the mailing date of a Final Rejection or Notice of Allowance, or action that otherwise closes prosecution in the application, and
 - ☐ a. I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1), or

- ☐ b. I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2), or
- ☐ c. Attached is our Check No. _____ in the amount of \$ _____ in payment of the fee under 37 C.F.R. § 1.17(p).
- ☐ 3. This Information Disclosure Statement is being filed more than three months after the U.S. filing date and after the mailing date of a Final Rejection or Notice of Allowance, but on or before payment of the Issue Fee. Attached is our Check No. _____ in the amount of \$ _____ in payment of the fee under 37 C.F.R. § 1.17(i), and
- ☐ a. I hereby state that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(1), or
- ☐ b. I hereby state that no item of information in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this Information Disclosure Statement. 37 C.F.R. § 1.97(e)(2).
- ☐ 4. Relevance of the non-English language document(s) is discussed in the present specification.

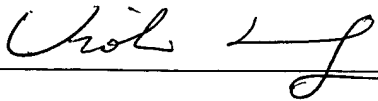
- ☐ 5. The document(s) was/were cited in a corresponding foreign application. An English language version of the foreign search report is attached for the Examiner's information.
- ☐ 6. A concise explanation of the relevance of the non-English language document(s) appears below:
- ☐ 7. The Examiner's attention is directed to co-pending U.S. Patent Application No. _____, filed _____, which is directed to related technical subject matter. The identification of this U.S. Patent Application is not to be construed as a waiver of secrecy as to that application now or upon issuance of the present application as a patent. The Examiner is respectfully requested to consider the cited application and the art cited therein during examination.
- ☐ 8. Copies of the documents were cited by or submitted to the Office in Application No. _____, filed _____, which is relied upon for an earlier filing date under 35 U.S.C. § 120. Thus, copies of these documents are not attached. 37 C.F.R. § 1.98(d).

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 08-3038 referencing docket number 11089.0003.NPUS01.

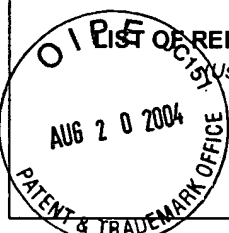
Respectfully submitted,

Date: August 20, 2004



Viola T. Kung (Reg. No. 41,131)

HOWREY SIMON ARNOLD & WHITE, LLP
2941 Fairview Park Drive
Box 7
Falls Church, Virginia 22042
Telephone: (650) 463-8133
Facsimile: (650) 463-8400

	REFERENCES CITED BY APPLICANT <i>(Use several sheets if necessary)</i>		ATTORNEY DOCKET NO. 11089.0003.NPUS01	APPLICATION NO. 10/678,490
	PTO FORM 1449		APPLICANT Derek LYDIATE, et al.	
	FILING DATE October 3, 2003		GROUP 1638	

U.S. PATENT DOCUMENTS							
*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE

FOREIGN PATENT DOCUMENTS							
*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION
							YES NO

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)		
	1	An, Y. et al., 1996, Plant J., 10: 107-121
	2	Archdeacon, J. et al., 2000, FEMS Microbiol. Let., 187:175-178
	3	Bittinger M. et al., 1997, Mol. Plant Microbe Interact., 10:180-186
	4	Bourgeois S. and Pfahl M., 1976, Repressors. Adv. Protein Chem., 30:1-99
	5	Brandstatter, I. And Kieber, J., 1998, Plant Cell, 10:1009-1019
	6	Brightwell, G. et al., 1995, Mol. Plant Microbe Interact., 8:747-754
	7	Budar F. et al., 1986, Plant Sci., 46:195-206
	8	Caddick, M. et al., 1998, Nature Biotech., 16:177-180
	9	Carrington, J. et al., 1991, Plant Cell, 3:953-962
	10	Chou, A. et al. 1998, Proc. Natl. Acad. Sci. USA, 95:5293-5298
	11	Clough S. and Bent A., 1998, Plant J., 16:735-743
	12	Cooley, M. et al., 1991, J. Bacteriol., 173:2608-2616
	13	Cornejo, M. et al., 1993, Plant Mol Biol., 23:567-81
	14	Depicker, A. et al., 1988, Plant Cell Reports, 7:63-66
	15	Deuschle U. et al., 1990, Science, 248:480-483
	16	D'Souza-Ault M. et al., 1993, J. Bacteriol., 175:3486-3490
	17	Ebinuma H. et al. 1997, Proc. Natl. Acad. Sci. U S A, 94:2117-2121
	18	Eichholtz D. et al., 1987, Somatic Cell Mol. Genet., 13:67-76
	19	Fraley R. et al., 1986, CRC Crit. Rev. Plant Sci., 4:1-45
	20	Gao, M. et al., 2003, Plant J., 33:1073-1086

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

LIST OF REFERENCES CITED BY APPLICANT <i>(Use several sheets if necessary)</i> PTO FORM 1449	ATTORNEY DOCKET NO.	APPLICATION NO.
	11089.0003.NPUS01	10/678,490
	APPLICANT	
	Derek LYDIATE, et al.	
	FILING DATE	GROUP
	October 3, 2003	1638

21	Gatz, C., 1997, Ann. Rev. Plant Physiol. Plant Mol. Biol., 48:89-108
22	Gatz C. and Lenk, I., Gatz, C., 1998, Trends Plant Sci., 3:352-358
23	Gatz C. et al., 1991, Mol. Gen. Genet., 227:229-237
24	Gatz C. et al., 1992, Plant J., 2:397-404
25	Gatz C. and Quail P., 1988, Proc. Natl. Acad. Sci. U S A, 85:1394-1397
26	Hillen, W. et al., 1984, J. Mol. Biol., 172:185-201
27	Holtorf, S. et al., 1995, Plant Mol. Biol., 29:637-646
28	Kakimoto, T., 1996, Science, 274:982-985
29	Kalderon, D. et al., 1984, Cell, 39:499-509
30	Kapila, J. et al., 1997, Plant Sci., 122:101-108
31	Karlin-Neumann G. et al., 1991, Plant Cell, 3:573-582
32	Keller M. et al., 1995, Mol. Plant Microbe Interact., 8:267-277
33	Kozziel M. et al., 1984, J. Mol. Appl. Genet., 2:549-562
34	Kunkel T. et al., 1999, Nature Biotech., 17 :916-919
35	Lin J. et al., 1996, Focus, 18:47-49
36	Mandel, T. et al., 1995, Plant Mol. Biol., 29:995-1004
37	Margraff R. and Leisinger, T., 1980, Experimentia, 36:846
38	Moloney M. et al. 1989, Plant Cell Rep., 8:238-242
39	Moore, I. Et al., 1998, Proc. Natl. Acad. Sci. U S A, 95:376-381
40	Murray, E., 1989, Nucl. Acids. Res., 17:477-498
41	Odell, J. et al., 1985, Nature, 313:810-812
42	Owens L., 1973, Weed Science, 21 :63-66
43	Paine, P. et al., 1975, Nature 254 :109-112
44	Perez, P. et al., 1989 Plant Mol. Biol., 13:365-373
45	Perl, A. et al., 1992, Plant Mol. Biol., 19:815-23
46	Petolino, J. et al., 2000, Transgenic Res., 9:1-9
47	Privalle L. et al. 2000, Phosphomannose isomerase - a novel system for plant selection, Proceedings of the 6th International Symposium on The Biosafety of Genetically Modified Organisms, Saskatoon, SK.
48	Rizzo P. et al., 1999, Cancer Res., 59:6103-6108

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

LIST OF REFERENCES CITED BY APPLICANT <i>(Use several sheets if necessary)</i> PTO FORM 1449	ATTORNEY DOCKET NO.	APPLICATION NO.
	11089.0003.NPUS01	10/678,490
	APPLICANT	
	Derek LYDIATE, et al.	
	FILING DATE	GROUP
	October 3, 2003	1638

	49	Robbins, J. et al., 1991, Cell, 64:615-623
	50	Salter, M. et al., 1998, Plant Journal 16,127-132
	51	Sardana, R. et al., 1996, Plant Cell Reports, 15:677-681
	52	Ulmasov, T. et al., 1997, Plant Cell 9:1963-1971
	53	van der Krol, A. and Chua, N., 1991, Plant Cell, 3:667-675
	54	Varagona, M. et al., 1991, Plant Cell 3:105-113
	55	Varagona, M. et al., 1992, Plant Cell, 4:1213-1227
	56	Xu, Y. et. al., 1994, Plant Physiol., 106:459-467
	57	Yanofsky, M. et al., 1990, Nature, 346:35-39
	58	Ye, G. et al., 2001, Plant J., 25:261-70
	59	Zhang, W. et al., 1991, Plant Cell, 3:1155-1165
EXAMINER		DATE CONSIDERED

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.